

EXHIBIT N

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

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HOLLY FISHER, EXECUTRIX OF THE: JULY TERM, 2019
ESTATE OF SANDRA REICHART, :

Plaintiff, :

vs. :

AMERICAN INTERNATIONAL :
INDUSTRIES, individually and :
as successor-in-interest for :
the CLUBMAN BRAND, and to THE :
NESLEMUR COMPANY and PINAUD :
COMPANY, et al., :

Defendants. : NO.: 0877

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Thursday, October 13, 2022
Courtroom 675, City Hall
Philadelphia, Pennsylvania

- - -

BEFORE: THE HONORABLE SIERRA THOMAS STREET, J.

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JURY TRIAL
P.M. SESSION

- - -

REPORTED BY: Kimberly Wilson, RMR, CRR

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19 Clubman Brand, and to The Neslemur Company
20 and Pinaud Company
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Dr. Jacqueline Moline, M.D. - Cross

1 physician, right?

2 A. Correct. They were all sent to me as part of
3 a medical-legal review.

4 Q. These were litigation files that they gave
5 you, right? Sent you to by plaintiff's lawyers who
6 hired you in litigation, right?

7 A. In some instances I might have met with the
8 individuals.

9 Q. This morning you talked about some intimate
10 medical details relating to Mrs. Reichart and
11 the -- and you wouldn't normally do that, like, out
12 on the street, would you?

13 MR. KRAMER: Objection.

14 THE COURT: Grounds?

15 MR. KRAMER: Form. Out on the
16 street.

17 THE COURT: What's the relevance of
18 that question? Sustained.

19 BY MR. THACKSTON:

20 Q. When you receive medical information in the
21 context of litigation, there's been a release by
22 the person who filed the lawsuit that says,
23 "Because I'm filing a lawsuit over my medical
24 condition, I agree that people can use my medical
25 information for litigation purposes." Right?

Dr. Jacqueline Moline, M.D. - Cross

1 MR. KRAMER: Objection. Outside the
2 scope of this witness's expertise. She's not
3 a lawyer. She's a doctor. What these
4 individuals do with their law firms and how
5 the legal process is outside the scope.

6 THE COURT: Overruled.

7 THE WITNESS: My understanding is
8 they sign a release and the medical records
9 are then provided.

10 BY MR. THACKSTON:

11 Q. When somebody files a lawsuit over their
12 medical condition, they sign a release that says,
13 "I understand you're going to need to talk about my
14 medical information in my lawsuit." Right?

15 A. You're asking me legal questions. But that's
16 part of the process, yes.

17 Q. Well, you're writing reports and testifying
18 about people's medical conditions. I assume you
19 have a comfort level that that's okay in the
20 context of litigation when they filed a lawsuit,
21 right?

22 A. For their specific case with respect to the
23 specific litigation, yes. I would not discuss it
24 outside of the specific litigation.

25 Q. And so, you wrote this article and you said

Dr. Jacqueline Moline, M.D. - Cross

1 that these 33 cases that I reviewed, these people
2 didn't have any other exposure to asbestos, so it
3 might have been cosmetic talc, right?

4 A. To the best of my knowledge, they did not have
5 any other sources.

6 Q. And then it came to your attention that one of
7 them had filed a Workers' Compensation claim
8 stating under oath that she was exposed to asbestos
9 on the job that had nothing to do with cosmetic
10 talc, right?

11 A. I'm aware -- I'm not going to discuss anyone
12 in the paper. If you're going to ask me about a
13 particular case, I would be happy to talk to you
14 about it. I'm not going to discuss any individual
15 who might be in the paper.

16 Q. I'm not using anybody's name.

17 A. I'm not discussing anyone in the paper.

18 Q. So let me get this straight, Doctor.

19 MR. THACKSTON: There's
20 no objection.

21 THE COURT: Is there an objection?

22 MR. KRAMER: I was just going to
23 note for the record the conversation we had
24 where I raised this objection initially with
25 regard to the appropriateness of discussing

Dr. Jacqueline Moline, M.D. - Cross

1 individuals that might reveal their identity.

2 THE COURT: The last thing I said
3 was that I will allow counsel to cross-examine
4 the witness about these issues.

5 MR. KRAMER: I understand. But I
6 think it might be going a little bit far
7 afield. That's why I'm placing my objection
8 on the record.

9 THE COURT: Overruled.

10 BY MR. THACKSTON:

11 Q. Dr. Moline, I'm not in any way, shape or form
12 asking you to identify anyone at all. What I'm
13 asking you is, it came to your attention that one
14 of the people had filed a Workers' Compensation
15 claim, right?

16 A. I was aware that an individual has filed a
17 Workers' Compensation claim.

18 Q. And somebody showed you the Workers'
19 Compensation claim that said, "Under penalty of
20 criminal law, I affirm that I was exposed to
21 asbestos on the job." Right?

22 A. And I was provided with other -- I don't
23 recall the exact forms that I had, but I was aware
24 of the ultimate finding that there was no exposure.

25 Q. Okay. So let's just -- that's what you were

Dr. Jacqueline Moline, M.D. - Cross

1 talking about on direct when you said, well, there
2 was a finding by a court that she was wrong. Is
3 that what you're saying?

4 MR. KRAMER: Objection.

5 Mischaracterizes, Judge.

6 THE COURT: Overruled.

7 THE WITNESS: My understanding is
8 that somebody filed, but it was not found. Or
9 there is a dispute whether there was actual
10 exposure. And my recollection is that the
11 finding was that there was no exposure.

12 BY MR. THACKSTON:

13 Q. So let me ask you about your scientific
14 methodology for writing an article then. When you
15 are reviewing litigation files, and you're basing
16 your opinion that you're putting in the paper on
17 allegations that people made in depositions, right?

18 A. Yes.

19 Q. Fine. And so if ultimately some court decides
20 that those allegations are wrong, does that make
21 that person a liar for saying it?

22 MR. KRAMER: Objection. Calls
23 for --

24 THE COURT: Sustained.

25

Dr. Jacqueline Moline, M.D. - Cross

1 BY MR. THACKSTON:

2 Q. I mean, you're assuming that whatever someone
3 has said under oath in a deposition is true, right?

4 A. It's often not just the individual, but there
5 are other individuals that may provide
6 corroborating information. So I would look at the
7 totality of the information.

8 Q. And you know that because it's a lawsuit that
9 there's a defendant in the lawsuit who's denied
10 that that's true, right? They've denied that the
11 person is entitled to be compensated, right?

12 MR. KRAMER: Objection. Again,
13 calls for speculation as to the process, what
14 defendants are thinking and doing.

15 THE COURT: I would agree that you
16 should rephrase that question. That question
17 alone does not identify exactly what you're
18 talking about, even though --

19 BY MR. THACKSTON:

20 Q. On direct examination, over my objection, you
21 were allowed to answer a question about the effect
22 of a Workers' Compensation ruling, right? You gave
23 an opinion about what the effect of a Workers'
24 Compensation ruling is, right?

25 A. I was discussing my experience in dealing with

Dr. Jacqueline Moline, M.D. - Cross

1 Workers' Compensation patients, which I have been
2 dealing with for years. And my understanding of
3 having patients who have gone through the process
4 whereby a decision is made that there is or there
5 is not exposure that led to the disease.

6 Q. Okay, some kind of adjudication. Some kind of
7 judicial review of the claim, right?

8 A. At some point, yes, in the case, unless the
9 company accepts whatever the condition might have
10 been.

11 Q. And so when it was brought to your attention
12 that this person had made this claim under the
13 penalty of criminal penalty that they were exposed
14 to asbestos in a mill, based on the fact that you
15 think that that was adjudicated, you decided not to
16 include that fact in your paper, right?

17 MR. KRAMER: Objection as per the
18 characterization of criminal penalty. Calls
19 for speculation.

20 THE COURT: Overruled.

21 THE WITNESS: I based the
22 information on what I had at hand with respect
23 to my understanding of the exposures the
24 individual had.

25

Dr. Jacqueline Moline, M.D. - Cross

1 BY MR. THACKSTON:

2 Q. And, in fact, the only denial was that the
3 defendant that she made the claim against denied
4 that they were liable, right?

5 A. I haven't memorized the entire file that
6 you're speaking about. I know that there was a
7 dispute whether there was exposure. And I'm not
8 quite sure at how far it proceeded or if it was
9 withdrawn at a certain point.

10 Q. Well, no matter how it ended up, it started
11 out with someone saying under oath that they were
12 exposed to asbestos other than cosmetic talc,
13 right?

14 MR. KRAMER: Objection. What are we
15 talking about?

16 THE COURT: Overruled. Counsel, you
17 know exactly what we are talking about. And
18 you objecting is not going to stop it.

19 THE WITNESS: I'm sorry. Can you
20 repeat the question?

21 BY MR. THACKSTON:

22 Q. No matter how it turned out, it started out,
23 the Workers' Compensation claim started out with
24 the plaintiff saying under oath that she was
25 exposed to asbestos on the job other than cosmetic

Dr. Jacqueline Moline, M.D. - Cross

1 talc, right?

2 A. I don't know what -- how the process starts in
3 the state that this individual lived in, if it was
4 just the lawyer making an assertion or whether it
5 was the individual. I do not have a specific
6 recollection of the rules and regulations since
7 they're state by state.

8 Q. You have been shown the claim before with the
9 signature by the husband, right?

10 A. I'm sure you have shown it to me in the past.
11 I don't -- but it's been years. And the husband is
12 not the individual. And the individual would have
13 known the exposure more than a husband.

14 Q. Have you ever done any work for the Graham and
15 Wallace law firm in Salisbury, North Carolina?

16 A. No.

17 Q. Weren't you a retained expert in the Bell
18 case?

19 A. I was an expert in the Bell case, but I was
20 not retained -- I don't recall that I was -- I was
21 not retained by that firm. I don't know that firm.

22 Q. Okay. So after you wrote this article based
23 on these litigation cases, and you testified about
24 these articles on direct examination, and you said
25 there's no epidemiology -- well, let me back up.

Dr. Jacqueline Moline, M.D. - Cross

1 There's no epidemiology suggesting that barbers or
2 hairdressers are at an increased risk for
3 mesothelioma, right?

4 A. No such study has yet been conducted. It
5 doesn't mean that it isn't true. But there has not
6 been a specific study that I have seen that is
7 specifically looking at barbers and hairdressers.

8 Q. Well, we'll get to that. Okay.

9 And so you said that my study is significant
10 because I got these 33 people who were only exposed
11 to cosmetic talc and they got meso, right?

12 A. I said my study was significant because it was
13 pointing to cosmetic talc as a cause of
14 mesothelioma and alerting physicians that they
15 should take a history. If you read the conclusion,
16 that's the point of this article.

17 Q. After you testified about your article to
18 juries, if somebody who's cross-examining you wants
19 to make sure that that's right, that in those 33
20 cases there was no other exposure -- alleged
21 exposure to asbestos, you take the position that
22 you won't disclose the names of any of those cases,
23 right?

24 A. I take that position regardless of what
25 situation I'm in. I do not disclose the names of

Dr. Jacqueline Moline, M.D. - Cross

1 individuals. That is standard medical practice.
2 That is standard research practice. I am not doing
3 anything different from any colleague that I know
4 at any institution.

5 MR. THACKSTON: Object to
6 responsiveness about what colleagues do.

7 THE COURT: Overruled.

8 BY MR. THACKSTON:

9 Q. Well, let's take that a step at a time. So
10 you're not they're treating physician. You have no
11 physician-patient relationship with any of the 33,
12 right?

13 MR. KRAMER: Objection, Judge. This
14 is now going into questioning regarding
15 whether or not or how she may -- the reason
16 why she's not going to be revealing these
17 individuals. And when we had this
18 conversation, counsel said he was not --

19 THE COURT: I agree, he did say
20 that.

21 MR. THACKSTON: I'm sorry, Your
22 Honor?

23 THE COURT: You did say that you
24 were limited to the issue that you have
25 already touched. Sustained.

1
2
3 CERTIFICATE
4
5

6 I HEREBY CERTIFY THAT THE PROCEEDINGS
7 AND EVIDENCE ARE CONTAINED FULLY AND ACCURATELY
8 IN THE NOTES TAKEN BY ME ON THE TRIAL OF THE
9 ABOVE CAUSE, AND THAT THIS IS A CORRECT TRANSCRIPT
10 OF THE SAME.
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15 KIMBERLY A. WILSON, RMR, CRR,
16 OFFICIAL COURT REPORTER
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18
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